

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:16CR131 MAC/KPJ
	§	
ERIKA CONSUELO SEPULVEDA-PINA	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government’s request for revocation of Defendant’s supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on October 6, 2016, to determine whether Defendant violated her supervised release. Defendant was represented by Felix Marquez. The Government was represented by Tracey Batson.

On April 27, 2011, Defendant was sentenced by the Honorable Marcia A. Crone, United States District Judge, to a sentence of seventy (70) months imprisonment followed by a three (3) year term of supervised release for the offense of Conspiracy to Possess with Intent to Distribute in Excess of 1 Kilogram of Heroin. Defendant began her term of supervision on November 23, 2015. This case was transferred to the Honorable Marcia A. Crone on October 10, 2015.

On September 15, 2016, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (the “Petition”) (Dkt. 2). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; and (3) Under the guidance and

direction of the U. S. Probation Office, Defendant shall participate in any combination of psychiatric, psychological, or mental health treatment as deemed appropriate by the treatment provider.

The Petition alleges that Defendant committed the following violations: (1) On May 2, and August 29, 2016, Defendant submitted a urine specimen that tested positive for cocaine. Both specimens were confirmed positive by Alere Toxicology Services; (2) On June 6, 2016, during an office visit, Defendant verbally and in writing admitted to using heroin on June 5, 2016. On August 25, 2016, during an office visit, Defendant verbally and in writing admitted to using opiates; and (3) On June 2, 2016, Defendant participated in a mental health assessment through Fletcher Counseling & Associates, Plano, Texas. Weekly individual counseling sessions were recommended and Defendant was instructed to commence treatment on June 17, 2016. Between June 17, 2016, and September 9, 2016, Defendant has attended a total of two (2) sessions. Defendant attended two (2) session in July and failed to attend scheduled sessions on July 12, 19, and 28, 2016. Defendant additionally did not attend any sessions in August, 2016.

At the hearing, Defendant entered a plea of true to allegations: (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; and (3) Under the guidance and direction of the U. S. Probation Office, Defendant shall participate in any combination of psychiatric, psychological, or mental health treatment as deemed appropriate by the treatment provider. Defendant waived her right to allocute before the district judge and her right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of her supervised release.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments presented at the October 6, 2016, hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eight (8) months, with twelve (12) months supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in FCI Carswell, if appropriate.

SIGNED this 26th day of October, 2016.

A handwritten signature in black ink, appearing to read 'K. Priest Johnson', written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE